

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1146 be amended to read as follows:

- 1 Page 1, after line 12, insert the following:
- 2 "SECTION 2. IC 34-55-10-2, AS AMENDED BY P.L.179-2005,
- 3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2008]: Sec. 2. (a) This section does not apply to judgments
- 5 obtained before October 1, 1977.
- 6 (b) The amount of each exemption under subsection (c) applies until
- 7 a rule is adopted by the department of financial institutions under
- 8 section 2.5 of this chapter.
- 9 (c) The following property of a debtor domiciled in Indiana is
- 10 exempt:
- 11 (1) Real estate or personal property constituting the personal or
- 12 family residence of the debtor or a dependent of the debtor, or
- 13 estates or rights in that real estate or personal property, of not
- 14 more than fifteen thousand dollars (\$15,000). The exemption
- 15 under this subdivision is individually available to joint debtors
- 16 concerning property held by them as tenants by the entireties.
- 17 (2) Other real estate or tangible personal property of eight
- 18 thousand dollars (\$8,000).
- 19 (3) Intangible personal property, including choses in action,
- 20 deposit accounts, and cash (but excluding debts owing and
- 21 income owing), of three hundred dollars (\$300).
- 22 (4) Professionally prescribed health aids for the debtor or a
- 23 dependent of the debtor.
- 24 (5) Any interest that the debtor has in real estate held as a tenant

1 by the entireties. The exemption under this subdivision does not
 2 apply to a debt for which the debtor and the debtor's spouse are
 3 jointly liable.

4 (6) An interest, whether vested or not, that the debtor has in a
 5 retirement plan or fund to the extent of:

6 (A) contributions, or portions of contributions, that were made
 7 to the retirement plan or fund by or on behalf of the debtor or
 8 the debtor's spouse:

9 (i) which were not subject to federal income taxation to the
 10 debtor at the time of the contribution; or

11 (ii) which are made to an individual retirement account in
 12 the manner prescribed by Section 408A of the Internal
 13 Revenue Code of 1986;

14 (B) earnings on contributions made under clause (A) that are
 15 not subject to federal income taxation at the time of the levy;
 16 and

17 (C) roll-overs of contributions made under clause (A) that are
 18 not subject to federal income taxation at the time of the levy.

19 (7) Money that is in a medical care savings account established
 20 under IC 6-8-11.

21 **(8) Money that is in a health savings account established**
 22 **under Section 223 of the Internal Revenue Code of 1986.**

23 ~~(8)~~ (9) Any interest the debtor has in a qualified tuition program,
 24 as defined in Section 529(b) of the Internal Revenue Code of
 25 1986, but only to the extent funds in the program are not
 26 attributable to:

27 (A) excess contributions, as described in Section 529(b)(6) of
 28 the Internal Revenue Code of 1986, and earnings on the excess
 29 contributions;

30 (B) contributions made by the debtor within one (1) year
 31 before the date of the levy or the date a bankruptcy petition is
 32 filed by or against the debtor, and earnings on the
 33 contributions; or

34 (C) the excess over five thousand dollars (\$5,000) of aggregate
 35 contributions made by the debtor for all programs under this
 36 subdivision and education savings accounts under subdivision

37 (9) having the same designated beneficiary:

38 (i) not later than one (1) year before; and

39 (ii) not earlier than two (2) years before;

40 the date of the levy or the date a bankruptcy petition is filed by
 41 or against the debtor, and earnings on the aggregate
 42 contributions.

43 ~~(9)~~ (10) Any interest the debtor has in an education savings
 44 account, as defined in Section 530(b) of the Internal Revenue
 45 Code of 1986, but only to the extent funds in the account are not
 46 attributable to:

- 1 (A) excess contributions, as described in Section 4973(e) of
 2 the Internal Revenue Code of 1986, and earnings on the excess
 3 contributions;
 4 (B) contributions made by the debtor within one (1) year
 5 before the date of the levy or the date a bankruptcy petition is
 6 filed by or against the debtor, and earnings on the
 7 contributions; or
 8 (C) the excess over five thousand dollars (\$5,000) of aggregate
 9 contributions made by the debtor for all accounts under this
 10 subdivision and qualified tuition programs under subdivision
 11 (8) having the same designated beneficiary:
 12 (i) not later than one (1) year before; and
 13 (ii) not earlier than two (2) years before;
 14 the date of the levy or the date a bankruptcy petition is filed by
 15 or against the debtor, and earnings on the excess contributions.
 16 ~~(10)~~ **(11)** The debtor's interest in a refund or a credit received or
 17 to be received under section 32 of the Internal Revenue Code of
 18 1986.
 19 (d) A bankruptcy proceeding that results in the ownership by the
 20 bankruptcy estate of a debtor's interest in property held in a tenancy by
 21 the entirety does not result in a severance of the tenancy by the
 22 entirety.
 23 (e) Real estate or personal property upon which a debtor has
 24 voluntarily granted a lien is not, to the extent of the balance due on the
 25 debt secured by the lien:
 26 (1) subject to this chapter; or
 27 (2) exempt from levy or sale on execution or any other final
 28 process from a court."
 (Reference is to HB 1146 as printed January 17, 2008.)

Representative Foley